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OFFICE OF PETITIONS

BARNES & THORNBURG, LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

In re Application of :
Ahmadi, et al. : DECISION ON PETITION
Application No. 09/776,620 :
Filed: February 2, 2001 :
Docket No.: 476-1988 :

This is a decision on the renewed petition, filed June 27, 2006, under 37 CFR 1.181 to withdraw the holding of abandonment.

The application became abandoned August 22, 2005 for failure to timely submit a proper reply to Office communication mailed June 21, 2005. The Office communication set a two month non-extendible period of time for reply. Notice of Abandonment was mailed April 11, 2006. A petition under 37 CFR 1.181 was filed April 25, 2006 and dismissed June 12, 2006.

Petitioners continue to allege that a response to the outstanding Office action was timely submitted July 20, 2005. Petitioners acknowledge that the response submitted July 20, 2005, while intended for the instant application, i.e., U.S. App. No. 09/776,620, contained the incorrect application number, namely, 09/846,096.

As previously indicated on decision mailed June 12, 2006, the communication received July 25, 2005 was matched to the serial number identified therein, namely, serial No. 09/846,096.

The communication did not timely reach the intended application (09/776,620) due to petitioners' error, the result of which caused the application to become abandoned.

Petitioners argue that "ever time that a misdirected paper is received and has the wrong serial number, that misdirected paper will find its way to the wrong application" and further state that the "situation of the present application is not unique in that regard."

Petitioners further argue that the previous decision on petition mailed June 12, 2006, "misses the point, and that it is that the proper paper was submitted to the Patent and Trademark Office and was received by the Patent and Trademark Office." Petitioners

further state that while the wrong serial number is "regretted," the paper was received.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a).

Applicants herein failed to correctly identify the application by citing an incorrect application number in the response.

A minor error in the identification of the application can be corrected by the Office provided the correct identification can be quickly discovered. See, MPEP 502.

The errors at issue in the instant application were not minor nor were they quickly discovered, as is evident by virtue of the resultant holding of abandonment. The response in question bore no identifiers that would have enabled the Office to correctly determine the intended application. The response bore the incorrect inventor, application number, filing date, invention title, examiner of record, art unit, and attorney docket number.

These errors, having been made by applicants' duly authorized and voluntarily chosen legal representative, cannot be deemed correctable, minor errors within the meaning of MPEP 502.

The Office is not persuaded that, as contended by petitions, a "proper response was received" in the instant application number. Instead, an improper response was received by the Office in the application identified in the response, namely, U.S. App. No. 09/846,096.

In view thereof, the petition to withdraw the holding of abandonment is hereby **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

ALTERNATE VENUE

Petitioners may wish to consider filing a petition stating that the delay in timely submitting a properly reply to the Notice was unintentional pursuant to 37 CFR 1.137(b) respectively. See MPEP 711.03(c).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300

By hand delivery:

U.S. Patent and Trademark Office
Customer Window, **Mail Stop Petition**
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions